

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

EDWARD DEMBINSKI, CHARLES
GLASER, and YVONNE CARDINAL, on
behalf of themselves and a similarly situated
class,

Plaintiffs,

v.

KERR CORPORATION,

Defendant.

Case No. 2:08-cv-10355

Judge Marianne O. Battani
Magistrate Judge Steve R. Whalen

John R. Canzano (P30417)
Roger McClow (P27170)
Klimist McKnight Sale McClow
& Canzano PC
Attorneys for Plaintiffs
400 Galleria Officentre, Suite 117
Southfield, MI 48034-8460
(248) 354-9650
jcanzano@kmsmc.com
rmcclow@kmsmc.com

Attorneys for Plaintiffs

Thomas G. Kienbaum (P15945)
Jay C. Boger (P58805)
Kienbaum Opperwall Hardy & Pelton, P.L.C.
280 N. Old Woodward Ave., Suite 400
Birmingham, Michigan 48009
(248) 645-0000
tkienbaum@kohp.com
jboger@kohp.com

Local Counsel for Kerr Corporation

Joel H. Kaplan (admitted to E.D. of Michigan)
Amanda A. Sonneborn (admission pending)
Seyfarth Shaw LLP
131 South Dearborn Street, Suite 2400
Chicago, Illinois 60603
(312) 460-5000
jkaplan@seyfarth.com
asonneborn@seyfarth.com

Attorneys for Kerr Corporation

STIPULATED ORDER TO CERTIFY A CLASS

At a session of said Court held in the United States District Court, Eastern District of Michigan, on October 29, 2008.

Present: MARIANNE O. BATTANI
United States District Judge

This matter having come before the Court upon stipulation of the parties, and

WHEREAS, on October 1, 2008, the Plaintiffs filed a motion for class certification;

WHEREAS, the parties have conferred and agreed to certify a class under the following conditions:

1. The class shall be defined as:
 - a. All hourly retirees of Kerr Corporation who were covered by a series of collective bargaining agreements between Kerr and the International Union, United Automobile, Aerospace, and Agricultural Implement Workers of America (UAW) and UAW Local 174, who retired on or before August 1, 1995, who were covered by a health insurance plan offered by Kerr after his or her retirement, and who
(a) retired on a disability retirement; (b) retired at or after age 62; or
(c) elected early retirement prior to the age of 62; and
 - b. All surviving spouses of all hourly retirees of Kerr Corporation who were covered by a series of collective bargaining agreements between Kerr and the International Union, United Automobile, Aerospace, and Agricultural Implement Workers of America (UAW) and UAW Local 174, who retired on or before August 1, 1995, who were covered by a health insurance plan offered by Kerr after his or

her retirement, and who (a) retired on a disability retirement; (b) retired at or after age 62; or (c) elected early retirement prior to the age of 62.

2. The class shall be certified under Federal Rules of Civil Procedure Rule 23 (b)(2).

3. Plaintiffs' counsel is appointed as class counsel.

4. The parties agree that by stipulating to the certification of the class as described in parts 1(a) and 1(b) above, Defendant does not waive its right to raise any defenses to the claims in this matter, including, but not limited to, arguments that Plaintiffs and/or class members failed to properly exhaust administrative and/or contractual remedies prior to bringing this lawsuit and, as such, their claims should be dismissed, and/or arguments that the language in various collective bargaining agreements, plan documents, and summary plan descriptions applied differently to various Plaintiffs and/or class members and, as such, their claims should be dismissed; nor do Plaintiffs or class members waive any rights to assert the validity of their claims in this matter or to oppose any defenses asserted by Defendant, including, but not limited to, the defenses mentioned above.

For the reasons set forth above, the prerequisites of Fed. R. Civ. P. 23(a) having been satisfied, and the Court being otherwise fully advised in the premises, IT IS HEREBY ORDERED that the class defined in parts 1(a) and (b) above is certified under the conditions identified in parts 2 through 4 above.

s/Marianne O. Battani
Marianne O. Battani
United States District Judge

Approved as to form and content:

/s/ John Canzano (with permission) Dated: October 26, 2008

John R. Canzano (P30417)
Roger McClow (P27170)
Klimist McKnight Sale McClow
& Canzano PC
Attorneys for Plaintiffs
400 Galleria Officentre, Suite 117
Southfield, MI 48034-8460
(248) 354-9650
jcanzano@kmsmc.com
rmcclow@kmsmc.com

Attorneys for Plaintiffs

/s/ Jay C. Boger Dated: October 26, 2008

Thomas G. Kienbaum (P15945)
Jay C. Boger (P58805)
Kienbaum Opperwall Hardy & Pelton, P.L.C.
280 N. Old Woodward Ave., Suite 400
Birmingham, Michigan 48009
(248) 645-0000
tkienbaum@kohp.com
jboger@kohp.com

Local Counsel for Kerr Corporation

/s/ Joel H. Kaplan (with permission) Dated: October 26, 2008

Joel H. Kaplan (admitted to E.D. of Michigan)
Amanda A. Sonneborn (admission pending)
Seyfarth Shaw LLP
131 South Dearborn Street, Suite 2400
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